IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2476 OF 2005

Sudhakar Bhaskar Wadekar ... Petitioner

Versus

The Maharashtra Housing and Area Development Authority & Ors. ... Respondents

Mr. R.V. Govilkar for Petitioner.

Mr. Vishal Phal, A.G.P. for R. Nos. 1 to 3.

Mr. A.B. Desai for R. No. 5.

**CORAM: F.I. REBELLO &**
**ANOOP V. MOHTA,JJ.**
**DATED: NOVEMBER 21, 2006**

**P.C.:**

. Rule. Heard forthwith.

. The stand of the Petitioner is that he is entitled to galas in the newly constructed building of Respondent No. 5 society. The society had earlier sent list of members to Respondent No. 1. The name of the Petitioner was not included amongst those names and consequently Petitioner was not allotted the premises. Earlier the Petitioner was allotted premises which he did not accept and by letter dated 2.1.1992, he was informed that he will be allotted in the new building. This did not happen. Thereafter, the Petitioner was allotted premises on 5th floor which the petitioner declined. It is the case of the Petitioner that there are

premises available on first, second and third floor. He ought to have been given a choice.

. Reply has been filed on behalf of MHADA by Mr. Ravindra Vanmali, firstly on 21.12.2006, when it was set out that the 13 tenements which were available are to be given to persons whose names were set out therein. It is further set out that these 13 tenements are not finally allotted. In the further affidavit on 8.11.2006, it is again reiterated that MHADA have not collected money from the allottees and the allotments have not yet been confirmed. In so far as the claim by het Petitioenr for one more gala, it is submitted that the Petitioner is entitled to only one gala as one gala is allotted to his mother. It is submitted that the gala stood in the name of the deceased brother of the Petitioner. Reliance is placed on the general power of attorney given by the brother of the Petitioner.

. Considering that in so far as one gala is concerned which is allotted to mother of the Petitioner, we do not propose to enter into that controversy. If the Petitioner claims any right that is between his mother and he can agitate that before an appropriate forum. However, it wouldl be unfortunate if the son proceeds against the mother.

. In respect of the gala which the Petitioner is entitled to, we see no reason why he should not be given first preference from the galas which are available. The learned counsel on instructions opts for Gala No.A-207 which was to be allotted to one Smt. Chavan as additional premises.

. We therefore, direct respondent No. 1 to 5 to allot the said gala tothe Petitioner within four weeks from today and put Petitoiner in possession of Gala bearing No. A-207. The Petitioner is entitled to 180 sq.f t. The Petitioner will pay the difference in amount in terms of the price fixed by MHADA on MHADA so demanding. On payment, Petitioner be inducted in Gala No. A-207. After the allotment, in so far as the other premises are concerned, it is for the respondents to allot them in the manner which is fair and just.

. Rule made absolute accordingly.

. No order as to costs.

**(ANOOP V. MOHTA,J.)** **(F.I.REBELLO, J.)**